

ORDINANCE NO. 20200504-A

**AN ORDINANCE OF THE CITY OF NIEDERWALD, TEXAS,
PROVIDING FOR THE REGULATION OF THE DISCHARGE
OF FIREARMS WITHIN THE CITY LIMITS OF THE CITY
OF NIEDERWALD, TEXAS; PROVIDING FOR PENALTIES;
PROVIDING FOR SEVERABILITY; REPEALER;
EFFECTIVE DATE; AND PROPER NOTICE AND MEETING**

WHEREAS, the City of Niederwald, Texas is a Type A general-law municipality;
and

WHEREAS, Section 51.001 of the Texas Local Government Code authorizes the City of Niederwald to adopt an ordinance that the City Council deems is for the good government, peace or order of the City; and

WHEREAS, Section 217.003(c) of the Texas Local Government Code authorizes the City of Niederwald to regulate the discharge of firearms within the city limits; and

WHEREAS, the City Council of the City of Niederwald desires to establish regulations governing the discharge of firearms within the city limits; and

WHEREAS, the City Council desires to protect the health, safety, and general welfare of the citizens of the City of Niederwald, Texas;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NIEDERWALD, TEXAS, THAT:

I.

CITY OF NIEDERWALD DISCHARGE OF FIREARMS ORDINANCE

Definitions

“*City*” shall mean the City of Niederwald, Texas, and encompasses all of the territory situated within the corporate boundaries of the City.

“*Firearm*” shall mean any device designed, made, or adapted to expel centerfire or rimfire ammunition through a barrel by using the energy generated by an explosion or burning substance, or any device readily convertible to that use. Firearms specifically include but are not limited to the following: bolt action rifle, shotgun, semi-automatic rifle, revolver, pistol, handgun, zip gun, sawed-off shotgun. Firearm does not include an “air gun” as defined by § 229.001 of the Texas Local Government Code.

“*Person*” shall mean an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust partnership, association, or any other

legal entity, as now or hereafter may be included in the definition of “person” contained in the Texas Code Construction Act, as amended.

Discharge of firearms–Prohibited

(a) A person commits an offense if the person discharges any kind of firearm, regardless of whether the shell or cartridge is blank or live ammunition, within the City.

(b) It is a defense to prosecution under this section that:

(1) The person was a licensed peace officer or animal control officer acting in the performance of his or her official duties;

(2) The person was at an indoor or outdoor shooting range operated by the United States government, the state, or a political subdivision of the state;

(3) The person was at an approved, permitted indoor or outdoor commercial shooting range constructed and operated in compliance with City ordinances and building codes;

(4) The person was using blank cartridges for a show or theatrical production, for signal or ceremonial purposes in athletics or sports, or by a military organization;

(5) The person discharged the weapon in the lawful protection of life or property as defined in the penal statutes of the State of Texas; or

(6) The person is a certified gunsmith and discharged the weapon for testing in a manner which does not pose a threat to the lives or property of others, and which has been approved or permitted by the City.

Same–Exceptions

The prohibition on the discharge of firearms in this Ordinance shall not apply in an area annexed by the City after September 1, 1981, if the firearm or other weapon is:

(1) A shotgun, air rifle or pistol, BB gun, or bow and arrow discharged:

(A) On a tract of land of 10 acres or more and more than 150 feet from a residence or occupied building located on another property; and

(B) In a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or

(2) A centerfire or rimfire rifle or pistol of any caliber discharged:

(A) On a tract of land of 50 acres or more and more than 300 feet from a residence or occupied building located on another property; and

(B) In a manner not reasonably expected to cause a projectile to cross the boundary of the tract.

Same-Additional Prohibition

It shall be unlawful for any person to discharge or cause to be discharged any firearm from or on real property situated outside the corporate limits of the City such that a projectile discharged from said firearm enters into or upon real property situated within the corporate limits of the City.

Same-Penalty

Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum of not more than five hundred dollars (\$500.00) for each offense.

II.

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

III.

Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are declared to be severable.

IV.

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

V.

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED this the 4th day of May, 2020.

Reynell Smith
Hon. Reynell Smith, Mayor

ATTEST:

Richard Crandal
Richard Crandal
City Administrator/Secretary